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VIA ECF

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September 3, 2020

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Hon. Christian F. Hummel  
James T. Foley United States Courthouse  
445 Broadway, Room 441  
Albany, New York 12207

Re: *National Rifle Association of America v. Cuomo et. al*, No. 18-cv-566-TJM-CFH

Dear Magistrate Judge Hummel:

I write on behalf of non-party Everytown for Gun Safety (“Everytown”) concerning Plaintiff the National Rifle Association of America’s (the “NRA”) Motion to Compel Everytown to Comply with Non-Party Subpoena (ECF No. 251) (the “Motion”) in the above-captioned action. Everytown respectfully seeks a two-week extension of its deadline to respond to the Motion, which is currently set for September 17, 2020, pursuant to the Court’s August 20, 2020 Order (ECF No. 249).

The NRA filed the motion and accompanying affidavit and exhibits — amounting to over 170 pages — on August 27, 2020, one week before Labor Day weekend. The deadline to respond is September 17, 2020. Everytown sought consent to this extension from the NRA’s counsel on August 31, 2020. Counsel opposed the extension request, invoking their purported commitment to the “timely” prosecution of this matter. But the NRA’s own conduct illustrates that time is not of the essence. And the normal professional courtesy of a two-week extension, spanning a holiday weekend when counsel working on the matter are out on vacation, would in no way prejudice the NRA in its lawsuit against the named defendants.

The NRA’s Motion seeks to compel Everytown’s compliance with a subpoena seeking “[a]ll documents and communications” on ten discrete subjects including a broad swath of Everytown’s internal deliberations. The NRA first served this subpoena more than a year-and-a-half ago (January 25, 2019), and Everytown lodged timely objections within one month. But since that initial exchange, there have been *multiple months-long periods* in which the NRA and its counsel disappeared, stalling negotiations related to the subpoena. That passivity cannot be squared with the NRA’s newfound contention that time is suddenly of the essence.

The two week extension we seek will have no impact whatever on the overall schedule of the case. Discovery between the actual parties to this case has been stayed until the end of September. See ECF No. 234. A two-week briefing extension related to third party discovery will not prejudice to the NRA in any way.

Given the foregoing, Everytown thus respectfully requests that this Court enter an Order setting its deadline to respond to the Motion to Compel to October 1, 2020.

Hon. Christian F. Hummel  
September 3, 2020  
Page 2

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We are available at the Court's convenience to address any issues the Court deems appropriate.

Sincerely,

s/ David Yohai

cc: Counsel of Record (by ECF)